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SOCIAL CARE, ENGLAND

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children's Homes (England) Regulations 2015

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The Secretary of State, having consulted such persons as he considers appropriate^(a), makes the following Regulations in exercise of the powers conferred by section [to be inserted] of the Children Act 1989^(b) and section [to be inserted] of the Care Standards Act 2000^(c).

PART 1
General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Children's Homes (England) Regulations 2015 and come into force on [1st April 2015].

(2) These Regulations apply—

- (a) to England only;
- (b) to a person who is aged 18 or over who is—
 - (i) accommodated in a children's home; and
 - (ii) not a person who is employed in, or in relation to, the home,as they apply to children who are accommodated in the home.

Interpretation

2.—(1) In these Regulations—

"the 1989 Act" means the Children Act 1989;

"the 2000 Act" means the Care Standards Act 2000;

"care plan" has the meaning given to it in the Care Planning, Placement and Case Review (England) Regulations 2010^(a);

(a) See section 22(9) of the 2000 Act for the requirement to consult.

(b) 1989 c. 41 ("the 1989 Act"). [INSERT]. See section 105(1) of the 1989 Act for the definition of "prescribed".

(c) 2000 c.14 ("the 2000 Act"). The powers are conferred upon the "appropriate Minister" who is defined in section 121(1) of the 2000 Act, in relation to England, as the Secretary of State. See section 121(1) of the 2000 Act for the definitions of "prescribed" and "regulations". [INSERT].

"care role" means working in a position which consists mainly or solely of providing care for children;

"child protection enquiry" has the meaning given to it by regulation 36(3) (behaviour management policies and records);

"children's guide" means a document produced by the registered person that explains, in a form appropriate to the age, needs and understanding of children accommodated in the home—

- (a) what each child can expect of and from the home's care;
- (b) the support to which each child is entitled;
- (c) how to make a complaint about the home or someone in it; and
- (d) how to access advocacy support;

"EHC plan" has the meaning given in section 37(2) (education, health and care plans) of the Children and Families Act 2014**(b)**;

"general medical practitioner" means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council under section 34C of the Medical Act 1983**(c)**;

"HMCI" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

"independent reviewing officer" means a person appointed pursuant to section 25A of the 1989 Act**(d)**;

"independent person" means a person appointed by the registered provider in accordance with regulation 45 (visits by independent person);

"organisation", other than in regulation 21 (behaviour management and discipline), means a body corporate**(e)** or an unincorporated association other than a partnership;

"placement plan" means the plan prepared in accordance with regulation 19 (placement plan for a child who is not looked after) or 20 (placement plan for looked after child);

"placing authority", in relation to a child accommodated in a children's home, means—

- (a) in the case of a child who is looked after by a local authority, that local authority;
- (b) in the case of a child who is not looked after by a local authority—
 - (i) if he or she is being provided with accommodation by a voluntary organisation, that voluntary organisation;
 - (ii) if he or she is accommodated in a qualifying school under arrangements made by a local authority, that local authority;
 - (iii) in cases not falling within (i) or (ii), the child's parent;

"qualifying school" means a school which is a children's home within the meaning of section 1(6) of the 2000 Act**(f)**;

"registered dental practitioner" means a person registered in the dentists register under section 14 of the Dentists Act 1984**(g)**;

"registered manager" means the person who is registered under Part 2 of the 2000 Act as the manager of the children's home;

"registered person" means the registered provider or the registered manager of the children's home;

(a) To be inserted.
(b) To be inserted.
(c) To be inserted.
(d) To be inserted.
(e) A limited liability partnership is a body corporate pursuant to section 1 of the Limited Liability Partnerships Act 2000 (2000 c.12).
(f) To be inserted.
(g) To be inserted.

"registered provider" means the person who is registered under Part 2 of the 2000 Act as the person carrying on the children's home;

"relevant plans", in relation to a child, includes that child's—

- (a) placement plan;
- (b) care plan;
- (c) statement of special educational needs; and
- (d) EHC plan;

"responsible individual" means, where the registered provider is an organisation, an individual who—

- (a) is a director, manager, secretary or other officer of the organisation;
- (b) is responsible for supervising the management of the children's home;
- (c) satisfies regulation 27(3) to (5);

"secure children's home" means a children's home used for the purpose of restricting liberty and approved for that purpose in respect of which a person is registered under Part 2 of the 2000 Act; and

"special educational needs" has the meaning given by section 20 of the Children and Families Act 2014(a);

"statement of purpose" means the statement compiled in accordance with regulation 18(1) (statement of purpose); and

"statement of special educational needs" means a statement of special educational needs maintained in relation to the child under section 324 of the Education Act 1996(b).

(2) In these Regulations, references to—

- (a) employing a person include—
 - (i) employing a person, whether or not for payment, and whether under a contract of service or a contract for services; and
 - (ii) allowing a person to work as a volunteer,and references to an employee, a person being employed, staff or a person working in the children's home are to be construed in accordance with sub-paragraph (a);
- (b) a child who is looked after by a local authority have the meaning given by section 22 of the 1989 Act(c), and references to a child who is not looked after are to be construed accordingly;
- (c) a partnership do not include a limited liability partnership(d).

Excepted establishments

3.—(1) For the purposes of the 2000 Act, establishments of the following descriptions are excepted from being a children's home—

- (a) an institution within the further education sector, as defined by section 91(3) of the Further and Higher Education Act 1992(e);
- (b) a 16 to 19 Academy, as defined by section 1B of the Academies Act 2010(f);
- (c) an establishment providing accommodation for children for less than 28 days in any twelve month period in relation to any one child, for the purposes of—
 - (i) a holiday; or

-
- (a) To be inserted.
 - (b) To be inserted.
 - (c) To be inserted.
 - (d) To be inserted.
 - (e) To be inserted.
 - (f) To be inserted.

- (ii) cultural, educational, recreational or sporting activities;
 - (d) subject to paragraph (2), premises at which a person provides childcare within the meaning of section 18 of the Childcare Act 2006 for less than 28 days in any twelve month period in relation to any one child;
 - (e) an establishment providing accommodation for children aged 16 and over—
 - (i) to enable them to undergo apprenticeship or training;
 - (ii) for the purposes of a holiday; or
 - (iii) for cultural, educational, recreational or sporting purposes;
 - (f) a holiday scheme for disabled children (as defined in regulation 2 of the Residential Holiday Schemes for Disabled Children (England) Regulations 2013(a)).
 - (g) an approved bail hostel or an approved probation hostel;
 - (h) an institution provided for young offenders under or by virtue of section 43(1) of the Prison Act 1952(b).
- (2) The exception in paragraph 1(d) does not apply to any establishment or premises in which the children who are accommodated are wholly or mainly of a description falling within section 3(2) of the 2000 Act(c).
- (3) For the purposes of calculating the period of 28 days in paragraph (1)(d), no account is to be taken of any period of 24 hours during which—
- (a) at least 9 hours are spent by a child in the care of his or her parent or relative; and
 - (b) childcare (within the meaning of section 18 of the Childcare Act 2006) is not provided for that child during that period.

PART 2

Quality standards and related matters

CHAPTER 1

Quality standards

Quality standards for children’s homes

4.—(1) The following standards (“quality standards”) are prescribed for the purposes of section 22(1A) of the 2000 Act with respect to children’s homes—

- (a) quality and purpose of care;
 - (b) children’s wishes and feelings;
 - (c) education;
 - (d) enjoyment and achievement;
 - (e) health and well-being;
 - (f) positive relationships;
 - (g) protection of children;
 - (h) leadership and management;
 - (i) care planning.
- (2) Regulations 5 to 14—
- (a) define the quality standards; and

(a) To be inserted.
 (b) To be inserted.
 (c) To be inserted.

(b) describe what has to be done to meet each quality standard.

(3) In regulations 5 to 14, when the terms “children” or “child” are used, they mean “children accommodated in the home” and “child accommodated in the home”, unless the context indicates otherwise.

Engaging with the wider system to ensure each child’s needs are met

5. In meeting regulations 6 to 14, the registered person must, and must ensure that staff—
- (a) seek to involve each child’s placing authority effectively in the child’s care, in line with the child’s relevant plans;
 - (b) seek to develop and maintain an effective working relationship with all relevant persons—
 - (i) involved in the care and protection of children in the area where the children’s home is located;
 - (ii) in relation to each child’s care, to seek to secure the input and services required to meet each child’s needs;
 - (c) if the response of the placing authority or any of the relevant persons is inadequate in relation to their role, challenge them to seek to ensure that each child’s needs are met in line with their relevant plans.

The quality and purpose of care standard

- 6.—(1) The quality and purpose of care standard is that the registered person—
- (a) understands the home’s overall aims and the outcomes it seeks to achieve for children;
 - (b) uses this understanding to deliver high quality care that meets children’s needs and supports them to achieve their potential;
 - (c) ensures that staff fulfil (a) and (b).
- (2) The quality and purpose of care standard is met if—
- (a) the registered person has and communicates, and ensures that staff have and communicate, a shared understanding of—
 - (i) the range of needs of children for whom it is intended that the home is to provide care;
 - (ii) the outcomes for children that the home aims to achieve;
 - (iii) how the home operates to achieve those outcomes;
 - (b) the understanding referred to in sub-paragraph (a)—
 - (i) is consistent with the home’s statement of purpose; and
 - (ii) informs the performance by the registered person of their obligations under sub-paragraph (c);
 - (c) the registered person ensures that staff—
 - (i) protect and promote each child’s welfare;
 - (ii) treat each child with dignity and respect;
 - (iii) provide personalised care that meets each child’s needs as recorded in his or her relevant plans and takes account of his or her background;
 - (iv) support each child to manage the consequences of any experiences of abuse or neglect;
 - (v) support each child to develop resilience and skills that prepare him or her, as the case may be, to return home, to live in a new placement or to live independently as an adult;
 - (vi) provide physical necessities, including personal items, for each child;

- (vii) make appropriate and reasonable decisions about the day-to-day arrangements for each child, in line with the child's relevant plans, which give the child an appropriate degree of freedom and choice;
 - (d) the registered person ensures that the premises used for the purposes of the home are designed and furnished in such a way that—
 - (i) they meet the needs of each child;
 - (ii) they enable each child to participate in the daily life of the home;
 - (iii) they enable each child to participate in the daily life of the community of the area in which the home is located;
 - (iv) each child's privacy is appropriately protected;
 - (v) each child can access all appropriate areas of the premises;
- (3) If the registered person places a limitation on a child's privacy or access to areas of the home's premises (see sub-paragraphs (d)(iv) and (v)), the registered person must ensure that any such limitation is—
- (a) intended to safeguard the child's welfare;
 - (b) necessary and proportionate to the child's needs; and
 - (c) kept under review and revised where appropriate.

The children's wishes and feelings standard

- 7.—(1) The children's wishes and feelings standard is that staff—
- (a) engage with children; and
 - (b) take children's wishes and feelings into account,
- about matters affecting children's care and welfare.
- (2) The children's wishes and feelings standard is met if—
- (a) the registered person ensures that staff—
 - (i) seek, consider and, where possible, act upon each child's wishes and feelings in relation to decisions about his or her care and welfare;
 - (ii) regularly consult children, and seek their feedback, about the quality of the home's care;
 - (iii) explain to each child how his or her wishes and feelings have been taken into account and give reasons for decisions;
 - (iv) support each child to express his or her wishes and feelings, including through specialist support where appropriate;
 - (v) explain to each child how his or her confidentiality will be respected and the circumstances when it may have to be set aside;
 - (vi) assist each child to prepare for a care and placement review and to make his or her wishes and feelings known for the purposes of a review;
 - (b) the registered person ensures that each child—
 - (i) is enabled to provide feedback to, and raise issues with, an appropriate person about the support and services the child receives;
 - (ii) is given access to and an explanation of the home's children's guide when he or she is admitted to the home;
 - (c) the registered person—
 - (i) keeps under review and, where appropriate, revises the children's guide;
 - (ii) if the children's guide is revised, gives each child access to the revised guide and an explanation of the changes;
 - (d) the registered person ensures that—

- (i) an explanation is given to each child, having regard to his or her age and understanding, as to how to make a complaint or representations in relation to the home or the care he or she receives and how any such complaint or representations will be dealt with;
- (ii) arrangements are in place to enable children to have access to advocacy support to ensure their voice is listened to;
- (e) the registered person ensures that the views of others with a significant relationship to each child, including family members, are regularly sought and taken into account in line with relevant plans.

The education standard

8.—(1) The education standard is that children make measurable progress towards achieving their educational potential and are supported to do so by the home.

(2) The education standard is met if the registered person ensures that—

- (a) staff—
 - (i) support each child’s learning and development, including support with homework where appropriate;
 - (ii) support each child to achieve his or her education, learning and training goals, as recorded in his or her relevant plans;
 - (iii) understand the barriers to learning that each child may face;
 - (iv) communicate the value of education and training to each child;
 - (v) support each child to engage in activities which promote learning outside of formal education and training provision;
 - (vi) maintain regular contact with each child’s education and training provider, including engaging with the provider and the placing authority to support his or her education and training and to maximise his or her achievement;
 - (vii) where they become aware of any need for further assessment or specialist provision with regard to a child, raise this with the child’s education or training provider and the placing authority;
 - (viii) support each child who is above compulsory school-age to participate in further education, training or employment and to prepare for future higher education or employment;
 - (ix) support a child who is excluded from school, or of compulsory school age but not attending school, to—
 - (aa) access educational and training support throughout the time that he or she is so excluded or otherwise not attending school; and
 - (bb) return to school as soon as possible;
- (b) each child—
 - (i) regularly attends education or training provision in line with his or her relevant plans;
 - (ii) has access to a range of equipment, facilities and resources to support his or her learning.

The enjoyment and achievement standard

9.—(1) The enjoyment and achievement standard is that children take part in and benefit from a variety of activities that meet their needs and develop and reflect their creative, intellectual, physical and social interests and skills.

(2) The enjoyment and achievement standard is met if the registered person ensures that—

- (a) each child has access to a range of activities that enable the child to pursue his or her individual hobbies and interests;
- (b) staff support each child to—
 - (i) develop his or her interests and skills through activities available inside and outside the home;
 - (ii) participate in activities inside and outside the home that he or she enjoys and which meet and expand his or her interests and preferences;
 - (iii) make a positive contribution to the home and the wider community;
 - (iv) make and sustain friendships with children inside and outside the home.

(3) The registered person must take each child’s relevant plans into account when carrying out the obligations in paragraph (2), but those plans are not to limit the steps that the registered person may decide to take in order to meet those obligations.

The health and well-being standard

10.—(1) The health and well-being standard is that—

- (a) the emotional, mental and physical health and well-being needs of children are met;
- (b) children receive advice, services and support in relation to their health and well-being;
- (c) children have healthy lifestyles.

(2) The health and well-being standard is met if the registered person ensures that—

- (a) staff support each child to—
 - (i) achieve personalised objectives for his or her health and well-being as recorded in his or her relevant plans;
 - (ii) understand his or her health and well-being needs and to make informed choices and decisions about his or her health and well-being;
 - (iii) take part in activities which meet his or her emotional, mental and physical health and well-being needs;
 - (iv) develop skills to maintain a healthy lifestyle;
 - (v) develop his or her understanding of personal, sexual and social relationships, and to responsibly enter into relationships appropriate to his or her age and development;
- (b) each child registers as a patient with a general medical practitioner;
- (c) each child has access to such dental, medical, nursing, psychiatric and psychological advice, treatment and other services, as he or she may require;
- (d) when a specialist health intervention is arranged for a child—
 - (i) the child’s clinician and placing authority are involved in the arrangements, kept informed throughout and, where appropriate, their prior approval has been obtained;
 - (ii) it can be demonstrated that the intervention meets the needs of that child;
 - (iii) the person delivering the intervention satisfies the requirements in paragraph (3).

(3) The requirements are that the person delivering the specialist health intervention—

- (a) has appropriate experience, qualifications and skills;
- (b) is legally entitled to practise;
- (c) will do so in a way that is appropriate and safe for the child.

(4) In this regulation “specialist health intervention” means a health intervention which is arranged for the child by someone other than the child’s clinician or placing authority.

The positive relationships standard

11.—(1) The positive relationships standard is that children benefit from, and are supported to develop, relationships based on—

- (a) mutual respect and trust;
- (b) an understanding about acceptable behaviour; and
- (c) positive responses to other children and adults.

(2) The positive relationships standard is met if the registered person ensures that—

- (a) each child is encouraged to build and maintain positive relationships with other children and adults;
- (b) each child benefits from positive, stable relationships with staff that set clear boundaries reflecting the nature of the relationship;
- (c) staff—
 - (i) meet each child’s emotional and behavioural needs, as set out in his or her relevant plans;
 - (ii) support each child to develop socially aware behaviours;
 - (iii) encourage each child to take responsibility for his or her behaviour, in accordance with his or her abilities and age;
 - (iv) support each child to develop and practise skills to—
 - (aa) build and maintain positive relationships with others; and
 - (bb) resolve conflicts positively and without harm to himself or herself or other parties;
 - (v) seek to gain each child’s respect and trust;
 - (vi) understand how children’s previous experiences and present emotions can be communicated through behaviour and have the competence and skills to interpret these and develop positive relationships with children;
 - (vii) are provided with supervision and support to manage and understand their own feelings and responses to the emotions and behaviours presented by children, and to help children to do the same;
 - (viii) de-escalate confrontations or potentially violent behaviour wherever possible to avoid the use of physical restraint;
 - (ix) understand and communicate to children that bullying by or of any person is unacceptable;
 - (x) have the skills to recognise incidents or indications of bullying and how to deal with them; and
- (d) disciplinary and restraint measures are used in accordance with regulation 21 (behaviour management and discipline) and regulation 22 (restraint and deprivation of liberty).

The protection of children standard

12.—(1) The protection of children standard is that children are—

- (a) protected from harm;
- (b) enabled to keep themselves safe,

both inside and outside the home.

(2) The protection of children standard is met if the registered person ensures that—

- (a) staff—
 - (i) assess whether each child is at risk of harm, taking into account information in his or her relevant plans;

- (ii) make arrangements to reduce the risk of harm to each child taking account of that information;
 - (iii) protect each child effectively from harm;
 - (iv) support each child to understand how he or she can manage his or her own safety;
 - (v) have the skills to identify, be alert to and act upon signs that a child is at risk of harm;
 - (vi) manage relationships between children to protect them from harming each other;
 - (vii) understand their individual responsibilities and roles in relation to protecting children, including what action to take whenever there is a serious concern about a child's welfare;
 - (viii) take effective action whenever there is a serious concern about a child's welfare, responding appropriately and alerting and seeking to involve relevant persons to manage risks and maintain each child's safety;
 - (ix) are familiar with, and act in accordance with, the home's procedure under regulation 36(1) (policies for the protection of children);
- (b) if a child is assessed as being at risk of harm, the home's day-to-day care is arranged and delivered so as to keep the child safe;
 - (c) the premises used for the purposes of the home are located so that children are, and can be, effectively safeguarded;
 - (d) the premises used for the purposes of the home are designed, furnished and maintained so as to protect each child from avoidable hazards to his or her health;
 - (e) the arrangements for the protection of children required by regulation 36 (policies for the protection of children) are in place, and the registered person regularly monitors the effectiveness of those arrangements;
 - (f) arrangements are made for children and persons working at the home to have access at all times, and in an appropriate form, to information enabling them to contact—
 - (i) the local authority in whose area the home is situated; or
 - (ii) HMCI,
 if they have concerns about the safety or welfare of children.

(3) The obligations in this regulation apply both inside and outside the home but are limited in their application outside the home by the extent to which the registered person and staff can affect what takes place there.

The leadership and management standard

13.—(1) The leadership and management standard is that the registered person enables, inspires and leads a culture that—

- (a) helps children aspire to do their best; and
 - (b) promotes their welfare.
- (2) The leadership and management standard is met if the registered person—
- (a) leads and manages the home in a way that delivers the approach, ethos and outcomes set out in the home's statement of purpose;
 - (b) demonstrates a vision for the home;
 - (c) leads staff to work as a cohesive team and ensures that they have the experience, qualifications and skills to meet the needs of each child in the home;
 - (d) ensures that each child receives care from a stable and sufficient workforce that is well supported and provides a consistent approach to care;

- (e) knows and understands the impact that the home is having on the progress and experiences of each child and uses this knowledge and understanding to inform the development of the quality of care in the home;
- (f) can demonstrate that practice in the home is informed and improved by—
 - (i) knowledge of developments in relation to the care of children within the range of needs for which it is intended that the home is to provide care; and
 - (ii) feedback on the experiences of children, including complaints received;
- (g) uses monitoring and review systems to—
 - (i) achieve continuous improvement in;
 - (ii) identify and address any weaknesses in or demands upon, the quality of care provided by the home.

The care planning standard

14.—(1) The care planning standard is that children’s needs are met by the home providing well-planned care and effectively managing the admission and placement of children.

- (2) The care planning standard is met if—
- (a) the registered person ensures that the needs of children admitted are within the range of needs set out in the home’s statement of purpose;
 - (b) the registered person ensures that arrangements are in place to—
 - (i) ensure the effective induction of children into the home;
 - (ii) manage and review the placement of children in the home to ensure that the welfare of each child is protected;
 - (iii) plan for, and to support, each child when he or she prepares to leave the home in a way that is consistent with arrangements agreed with his or her placing authority;
 - (c) subject to regulation 23 (contact and access to communications), the registered person promotes contact between each child and his or her parents, relatives and friends, in accordance with the child’s relevant plans;
 - (d) the premises used for the purposes of the home are located so that children are able to access services to meet the needs identified in their relevant plans;
 - (e) the registered person contacts a child’s placing authority and requests a review of that child’s relevant plans when—
 - (i) the registered person considers that the child is at risk of harm or has concerns that the care provided for the child is inadequate to meet his or her needs;
 - (ii) the child requests a review of his or her relevant plans;
 - (f) each child is supported to access and contribute to the records kept by the registered person in relation to him or her.

Application of these Regulations with modifications to short breaks

15.—(1) In the circumstances in paragraph (2), these Regulations apply in relation to a child accommodated in a children's home with the modifications in paragraph (3).

- (2) The circumstances are that—
- (a) the child is not in the care of the local authority, and
 - (b) the child is placed in a series of short term placements within children's homes ("short breaks"), where—
 - (i) no single placement is intended to last for more than 17 days;

- (ii) at the end of each placement the child returns to the care of the child's parent or a person who is not the child's parent but who has parental responsibility for that child; and
 - (iii) the short breaks do not exceed 75 days in total in any twelve month period.
- (3) The modifications are that the following regulations do not apply in relation to that child—
- (a) regulation 5(b) (engaging with the wider system to ensure each child's needs are met);
 - (b) regulation 6(2)(c)(v) (the quality and purpose of care standard);
 - (c) regulation 8(2)(a)(vi), (vii), (ix) and (b)(i) (the education standard);
 - (d) regulation 9(2)(b)(iv) (the enjoyment and achievement standard);
 - (e) regulation 10(2)(b) and (c) (the health and well-being standard);
 - (f) regulation 14(2)(c) (the care planning standard).

Application of these Regulations to secure children's homes

16.—(1) The regulations in paragraph (2) are modified in relation to children accommodated in a secure children's home to the extent that it is necessary to keep children within the home.

- (2) The regulations are—
- (a) regulation 6(2)(c)(vii), (d)(iii), (iv) and (v) (the quality and purpose of care standard);
 - (b) regulation 9(2) (the enjoyment and achievement standard);
 - (c) regulation 14(2)(d) (the care planning standard); and
 - (d) regulation 25(a), (b) and (c) (use of surveillance).

Duty to have regard to statements of standards published under section 23 of the 2000 Act

17. The registered person must have regard to a statement of standards published by the appropriate Minister with respect to children's homes under section 23 of the 2000 Act.

CHAPTER 2

Matters related to Quality Standards

Statement of purpose

18.—(1) The registered person must compile in relation to the children's home a statement (in these Regulations referred to as "the statement of purpose") which consists of a statement as to the matters listed in Schedule 1.

(2) The registered person must provide a copy of the statement of purpose to HMCI and make a copy of it available upon request for inspection by—

- (a) a person who works at the home;
- (b) a child accommodated in the home;
- (c) a parent of a child accommodated in the home;
- (d) the placing authority of a child accommodated in the home; and
- (e) in the case of a qualifying school, the Secretary of State,

and in this paragraph references to a child who is accommodated in the children's home include a child in respect of whom accommodation in the children's home is being considered.

- (3) The registered person must—
- (a) keep the statement of purpose under review and, where appropriate, revise it;
 - (b) notify HMCI of any revisions and send them a copy of the revised statement within 28 days of the revision.

(4) Where a children's home has a website, the registered person must ensure that a copy of the statement of purpose is published on that website unless the registered person considers that such publication would prejudice the welfare of children cared for in the children's home.

(5) Subject to paragraph (6), the registered person must ensure that the children's home is at all times conducted in a manner which is consistent with its statement of purpose.

(6) Nothing in paragraph (5) or regulation 44 (review of premises) is to require or authorise the registered person to contravene or not comply with—

- (a) any other provision of these Regulations; or
- (b) any conditions for the time being in force in relation to the registration of the registered person under Part 2 of the 2000 Act.

Placement plan for a child who is not looked after

19.—(1) Where a child who is not looked after by a local authority is placed in a—

- (a) children's home by a voluntary organisation, the registered person must co-operate with the voluntary organisation in agreeing and signing the placement plan prepared for the child in accordance with regulations 4 and 5 of the Arrangements for the Placement of Children by Voluntary Organisations and Others (England) Regulations 2011(a) ("the 2011 Regulations").
- (b) private children's home other than by a voluntary organisation, the registered person must prepare a placement plan for that child in accordance with regulations 4 and 5 of the 2011 Regulations.

(2) In cases not falling within paragraph (1), the registered person must, before providing accommodation in a children's home for a child who is not looked after by a local authority, or if that is not reasonably practicable, as soon as possible thereafter, prepare in consultation with the child's placing authority a placement plan for the child setting out, in particular—

- (a) how, on a day-to-day basis, the child will be cared for, and the child's welfare safeguarded and promoted by the home;
- (b) the arrangements made for the child's health care and education; and
- (c) any arrangements made for contact with the child's parents, relatives and friends.

(3) The registered person must keep under review and revise the placement plan as necessary.

(4) In preparing or reviewing the placement plan the registered person must, so far as practicable having regard to the child's age and understanding, seek and take account of his or her views.

(5) The registered person must so far as is reasonably practicable—

- (a) ensure that the placement plan is consistent with any plan for the care of the child prepared by his or her placing authority; and
- (b) comply with requests made by the child's placing authority to—
 - (i) provide it with information relating to the child; and
 - (ii) provide a suitable representative to attend any meetings it may hold concerning the child.

(6) In this regulation, "private children's home" has the meaning given in the 1989 Act(b).

Placement plan for looked after child

20.—(1) Where a child is looked after by a local authority, the registered person must co-operate with the child's placing authority in agreeing and signing the plan for the child's placement

(a) To be inserted.

(b) To be inserted.

prepared in accordance with regulation 9 or, as the case may be, regulation 47C(2) of the Care Planning, Placement and Case Review (England) Regulations 2010(a).

- (2) The registered person must comply with requests by the child's placing authority to—
- (a) provide it with information relating to the child; and
 - (b) provide a suitable representative for any meetings it may hold concerning the child.

Behaviour management and discipline

21.—(1) No measure of control or discipline which is excessive, unreasonable or contrary to paragraph (2) may be used at any time on children accommodated in a children's home.

(2) Subject to paragraph (3), the following must not be used as disciplinary measures on children accommodated in a children's home—

- (a) a form of corporal punishment;
- (b) a punishment involving the consumption or deprivation of food or drink;
- (c) a restriction, other than one imposed by a court or in accordance with regulation 23 (contact and access to communications), on—
 - (i) a child's contact with parents, relatives or friends;
 - (ii) visits to the child by the child's parents, relatives or friends;
 - (iii) a child's communications with any of the persons listed in regulation 23(2) (contact and access to communications); or
 - (iv) a child's access to any telephone helpline providing counselling for children;
- (d) requiring a child to wear distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment;
- (f) the intentional deprivation of sleep;
- (g) imposing a financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
- (h) an intimate physical examination of the child;
- (i) withholding any aids or equipment needed by a disabled child;
- (j) a measure involving—
 - (i) a child in imposing a measure against another child; or
 - (ii) punishing a group of children for the behaviour of an individual child.

(3) Nothing in this regulation prohibits—

- (a) the taking of any action by, or in accordance with the instructions of, a registered medical practitioner or a registered dental practitioner which is necessary to protect the health of the child;
- (b) taking any action that is immediately necessary to prevent injury to any person or serious damage to property; or
- (c) imposing a requirement that a child wears distinctive clothing for sporting purposes, or for purposes connected with the child's education or with any organisation whose members customarily wear a uniform in connection with its activities.

Restraint and deprivation of liberty

22.—(1) Subject to paragraph (2), a measure of restraint may only be used on a child accommodated in a children's home for the purpose of—

- (a) preventing injury to any person (including the child who is being restrained);

(a) To be inserted.

- (b) preventing serious damage to the property of any person (including the child who is being restrained); and
- (c) in the case of a child who is the subject of a court order as set out in sub-paragraph (4), or who is accommodated in a secure children's home, preventing the child from absconding from the home,

and then only where no alternative method of preventing an event in sub-paragraphs (a) to (c) is available.

(2) Where a measure of restraint is used on a child accommodated in a children's home—

- (a) the measure of restraint must be proportionate; and
- (b) no more force than is necessary should be used.

(3) A measure of restraint is used where a person—

- (a) uses, or threatens to use, force to secure the doing of an act which a child resists; or
- (b) restricts a child's liberty of movement, whether or not the child resists.

(4) Nothing in these regulations prevents a child from being deprived of their liberty where that deprivation is authorised in accordance with a court order, other than a court order made under section 25 of the 1989 Act^(a).

Contact and access to communications

23.—(1) The registered person must, subject to paragraph (3), ensure that suitable facilities are provided within the children's home for any child accommodated there to meet privately at any reasonable time with his or her parents, relatives, friends or the persons listed in paragraph (2).

(2) The persons are—

- (a) a solicitor or other adviser or advocate acting for the child;
- (b) an officer of the Children and Family Court Advisory and Support Service appointed for the child;
- (c) a social worker for the time being assigned to the child by his or her placing authority;
- (d) a person authorised by HMCI;
- (e) a person authorised by the local authority in whose area the children's home is situated;
- (f) a person appointed pursuant to section 23ZB of the 1989 Act^(b);
- (g) a person authorised in accordance with section 80(2) of the 1989 Act by the Secretary of State to conduct an inspection of the children's home and the children there;
- (h) a person appointed in respect of any requirement of the procedure specified in the Children Act 1989 Representations Procedure (England) Regulations 2006^(c).

(3) The facilities may be at a different address if a certificate under section 51 of the 1989 Act^(d) is in force in relation to the children's home.

(4) Subject to paragraphs (6) and (8), the registered person must ensure that children accommodated in the home are provided at all reasonable times with access to the following facilities which they may use without reference to persons working in the home—

- (a) a telephone on which to make and receive telephone calls in private; and
- (b) facilities to send and receive post and, if the necessary facilities are provided for the use of children accommodated in the home, electronic mail, in private.

(a) To be inserted.
 (b) To be inserted.
 (c) To be inserted.
 (d) To be inserted.

(5) The registered person must ensure that a disabled child accommodated in the home is provided with access to such aids and equipment as he or she may require as a result of his or her disability in order to facilitate his or her communication with others.

(6) Subject to paragraphs (7) and (8), the registered person may impose such conditions, prohibitions or restrictions upon a child's—

- (a) contact with a person under paragraph (1); or
- (b) access to communications under paragraph (4),

that the registered person considers to be necessary for the purpose of safeguarding or promoting the welfare of the child in question.

(7) No measure may be imposed by the registered person pursuant to paragraph (6) unless—

- (a) the child's placing authority consents to the imposition of the measure; or
- (b) the measure is imposed in an emergency, and full details are given to the placing authority within 24 hours of its imposition.

(8) This regulation is subject to the provisions of any relevant court order relating to contact between the child and any person.

Medicines

24.—(1) The registered person must make suitable arrangements for the handling, recording, safekeeping, safe administration and disposal of medicines received into the children's home.

(2) In particular the registered person must ensure, subject to paragraph (3), that—

- (a) medicines kept in the children's home are stored in a secure place so as to prevent any child accommodated in the home from having unsupervised access to them;
- (b) medicine which is prescribed for a child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
- (c) a record is kept of the administration of medicine to any child.

(3) Paragraph (2) does not apply to medicine which—

- (a) is stored by the child for whom it is provided in such a way that other persons are prevented from using it; and
- (b) may be safely self-administered by that child.

(4) In this regulation, "prescribed" means—

- (a) ordered for a patient for provision to them under or by virtue of the National Health Service Act 2006(a) or section 176(3) of the Health and Social Care (Community Health and Standards) Act 2003(b); or
- (b) in a case not falling within sub-paragraph (a), prescribed for a patient under section 58 of the Medicines Act 1968(c).

Use of surveillance

25. Subject to any requirements for electronic monitoring imposed by a court, the registered person must ensure that electronic or mechanical monitoring devices for the surveillance of children are not used in a children's home, except for the purpose of safeguarding and promoting the welfare of the child concerned, or other children accommodated in the children's home, and where the following conditions are met—

- (a) the child's placing authority consents to the use of the measure in question;
- (b) it is provided for in the child's placement plan;

(a) To be inserted.
(b) To be inserted.
(c) To be inserted.

- (c) so far as practicable in the light of his or her age and understanding, the child in question is informed in advance of the intention to use the measure; and
- (d) the measure is no more restrictive than necessary, having regard to the child's need for privacy.

Fire precautions

26.—(1) Subject to paragraph (2), and after consultation with the fire and rescue authority, the registered person must —

- (a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment;
- (b) provide adequate means of escape;
- (c) make arrangements for persons working at the children's home to receive suitable training in fire prevention; and
- (d) ensure, by means of fire drills and practices at suitable intervals, that persons working at the home and, so far as practicable, children accommodated there, are aware of the procedure to be followed in case of fire.

(2) Where the Regulatory Reform (Fire Safety) Order 2005(a) applies to the children's home—

- (a) paragraph (1) does not apply; and
- (b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees)(b), are complied with in respect of the home.

(3) In this regulation, "fire and rescue authority" means the fire and rescue authority under the Fire and Rescue Services Act 2004(c) for the area in which a children's home is situated.

PART 3

Registered persons

Fitness of registered provider

27.—(1) A person may not carry on a children's home unless they are fit to do so.

(2) A person is not fit to carry on a children's home unless they are—

- (a) an individual who carries on the children's home—
 - (i) as an individual, and that individual satisfies the requirements in paragraph (3) and (4);
 - (ii) with another person or other persons, otherwise than in a partnership, and that individual and each other person satisfy the requirements in paragraphs (3) and (4);
- (b) a partnership, and each of the partners satisfy the requirements in paragraphs (3) and (4);
- (c) an organisation and—
 - (i) the directors of the organisation satisfy the requirements in paragraph (3);
 - (ii) the organisation has given notice to HMCI of the name, address and position in the organisation of the responsible individual.

(3) The requirements are that—

- (a) the individual is of integrity and good character;

(a) To be inserted.
 (b) To be inserted.
 (c) To be inserted.

- (b) full and satisfactory information is available in relation to the individual in respect of each of the matters in Schedule 2.
- (4) The requirement is that the individual is mentally and physically fit to carry on the children's home.
- (5) The requirement is that the individual has the capacity, experience and skills—
 - (a) to supervise the management of the home; and
 - (b) where that individual is nominated in respect of more than one home, to supervise the management of those homes as a whole.
- (6) A person may not carry on a children's home if—
 - (a) he or she has been adjudged bankrupt, or sequestration of his or her estate has been awarded or a moratorium period under a debt relief order (within the meaning of section 251A of the Insolvency Act 1986^(a)) applies in relation to him or her and he or she has not been discharged from the bankruptcy or the sequestration and the bankruptcy order has not been annulled or rescinded; or
 - (b) he or she has made a composition or arrangement with his or her creditors and has not been discharged in respect of it.
- (7) In this regulation, 'director' includes any individual who performs the functions of, or functions equivalent or similar to the functions of, a director, by whatever name called.

Appointment of manager

- 28.**—(1) The registered provider must appoint an individual to manage the children's home if—
- (a) there is no registered manager in respect of the children's home; and
 - (b) the registered provider—
 - (i) is an organisation or a partnership;
 - (ii) is not a fit person to manage a children's home; or
 - (iii) is not, or does not intend to be, in full-time day-to-day charge of the children's home.
- (2) Where the registered provider appoints a person to manage the children's home, he or she must without delay give notice to HMCI of—
- (a) the name of the person so appointed; and
 - (b) the date on which the appointment is to take effect.

Fitness of manager

- 29.**—(1) A person may not manage a children's home unless he or she is fit to do so.
- (2) A person is not fit to manage a children's home unless—
- (a) he or she is of integrity and good character;
 - (b) having regard to the size of the children's home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there—
 - (i) he or she has the appropriate experience, qualifications and skills to manage the home effectively and lead the care of its children; and
 - (ii) he or she is physically and mentally fit to manage the children's home; and
 - (c) full and satisfactory information is available in relation to him or her in respect of each of the matters in Schedule 2.
- (3) A person who manages one or more children's homes must have the capacity to be in full-time day-to-day charge of each of those homes.

(a) To be inserted.

(4) For the purposes of sub-paragraph (2)(b)(i), a person does not have the qualifications, skills and experience necessary to manage the children's home unless he or she has—

- (a) attained—
 - (i) the Level 5 Diploma in Leadership for Health and Social Care and Children and Young People's Services in the children and young people's residential management pathway ("the Level 5 Diploma"); or
 - (ii) a qualification which the registered provider considers to be equivalent to the Level 5 Diploma,
- by the date in paragraph (5) (subject to paragraph (6));
- (b) within the last 5 years, worked for at least 2 years in a position relevant to the residential care of children; and
 - (c) worked for at least one year in a role requiring the supervision and management of staff working in a care role.

(5) The date is—

- (a) the date which falls three years after the date on which the person started managing the children's home, in the case of a person who starts or started managing the home after 1st April 2014; or
- (b) 1st April 2017, in the case of a person who was managing the children's home on 1st April 2014.

(6) The registered provider may extend a time limit in paragraph (5) if the person managing the children's home does not work in that capacity for a prolonged period.

Registered provider and registered manager

30.—(1) The registered provider and the registered manager must, having regard to the size of the children's home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there, carry on or manage the home (as the case may be) with sufficient care, competence and skill.

(2) If the registered provider is—

- (a) an individual, he or she must undertake;
- (b) an organisation, it must ensure that the responsible individual undertakes;
- (c) a partnership, it must ensure that one of the partners undertakes,

from time to time such continuing professional development as is appropriate to ensure that he or she has the experience and skills necessary for carrying on the children's home.

(3) The registered manager must undertake from time to time such continuing professional development as is appropriate to ensure that he or she has the experience and skills necessary for managing the children's home.

Notification of offences

31. Where the registered provider, the registered manager, the responsible individual or any of the directors (as defined in regulation 27 (fitness of registered provider)) is convicted of a criminal offence, whether in England and Wales or elsewhere, he or she must without delay give notice in writing to HMCI of—

- (a) the date and place of the conviction;
- (b) the offence of which he or she was convicted; and
- (c) the penalty imposed on him or her in respect of the offence.

Compliance with regulations

32. Where there is more than one registered person in respect of a children's home, anything which is required under these Regulations to be done by the registered person will, if done by one of the registered persons, not be required to be done by any of the other registered persons.

PART 4

Staffing

Staffing of children's homes

33.—(1) The registered person must ensure that the employment of any persons on a temporary basis at the children's home will not prevent children from receiving such continuity of care as is reasonable to meet their needs.

(2) The registered person must ensure that—

- (a) at all times, at least one person on duty at the children's home has a suitable first aid qualification;
- (b) any person appointed to the position of nurse at the children's home is a registered nurse.

Fitness of workers

34.—(1) The registered person must recruit staff using the principles of safer recruitment and a rigorous recruitment procedure.

(2) The registered person may not—

- (a) employ a person to work at the children's home unless that person is fit to work at a children's home; or
- (b) allow a person to whom paragraph (3) applies to work at the children's home unless that person is fit to work at a children's home.

(3) This paragraph applies to any person who is employed by a person other than the registered person to work at the children's home in a position in which he or she may, in the course of his or her duties, have regular contact with children accommodated there.

(4) For the purposes of paragraph (2), a person is not fit to work at a children's home unless—

- (a) he or she is of integrity and good character;
- (b) he or she has the experience, qualifications and skills necessary for the work he or she is to perform;
- (c) he or she is mentally and physically fit for the purposes of the work he or she is to perform; and
- (d) full and satisfactory information is available in relation to him or her in respect of each of the matters in Schedule 2.

(5) Where a person works in the children's home in a care role, that person must attain or hold—

- (a) the Level 3 Diploma for the Children and Young People's Workforce in the children's social care pathway ("the Level 3 Diploma"); or
- (b) a qualification which the registered person considers to be equivalent to the Level 3 Diploma,
by the date in paragraph (6) (subject to paragraph (7)).

(6) The date is—

- (a) in the case of a person who starts or started working in a care role in the children's home after 1st April 2014, the date which falls two years after the date on which that person started work in that role; or

- (b) in the case of a person who was working in a care role in the children's home on 1st April 2014, 1st April 2016.
- (7) The registered person may extend a time limit in paragraph (6) where the person working in the care role does not work in that capacity for a prolonged period.
- (8) The registered person must ensure that—
- (a) an offer of employment to a person is subject to paragraph (4)(d) being complied with in relation to that person; and
 - (b) unless paragraph (9) applies, a person does not start work at a children's home until such time as paragraph (4)(d) has been complied with in relation to that person.
- (9) The registered person may permit a person to start work at a children's home notwithstanding paragraph (8)(b) where the following conditions apply—
- (a) the registered person has taken all reasonable steps to obtain full information in respect of each of the matters in Schedule 2 in respect of that person, but the enquiries in relation to any of the matters in paragraphs 3 to 6 of Schedule 2 are incomplete;
 - (b) full and satisfactory information in respect of that person has been obtained in relation to the matters in paragraphs 1 and 2 of Schedule 2;
 - (c) the registered person considers that the circumstances are exceptional; and
 - (d) pending receipt of, and satisfying himself or herself with regard to, any outstanding information, the registered person ensures that the person is appropriately supervised while carrying out his or her duties.
- (10) The registered person must take reasonable steps to ensure that any person working at the children's home—
- (a) who is not employed by the registered person; and
 - (b) to whom paragraph (3) does not apply,
- is appropriately supervised while carrying out his or her duties.

Employment of staff

- 35.—**(1) The registered person must—
- (a) ensure that all employees complete an appropriate induction;
 - (b) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
 - (c) provide all employees with a job description outlining their responsibilities.
- (2) The registered person must operate a disciplinary procedure which, in particular—
- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children accommodated in the home; and
 - (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse, of a child accommodated in the home to an appropriate person is a ground on which disciplinary proceedings may be instituted.
- (3) For the purposes of paragraph (2)(b), an appropriate person is the registered person, an officer of HMCI or of the local authority in whose area the home is situated, or a police officer.
- (4) The registered person must ensure that all persons employed by him or her—
- (a) receive appropriate continuing professional development;
 - (b) are supervised and appraised by a person with appropriate experience;
 - (c) receive regular reviews to ensure that they remain fit to perform their roles; and
 - (d) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

PART 5

Policies, records, complaints and notifications

Policies for the protection of children

- 36.**—(1) The registered person must prepare and implement a policy which—
- (a) is intended to safeguard children accommodated in the children's home from abuse or neglect; and
 - (b) sets out the procedure to be followed in the event of an allegation of abuse or neglect.
- (2) The procedure under paragraph (1)(b) must in particular provide for—
- (a) liaison and co-operation with any local authority which are, or may be, making enquiries in the exercise of a function under the 1989 Act in relation to the protection of a child accommodated in the children's home;
 - (b) the prompt referral to the local authority in whose area the children's home is situated, of an allegation of abuse or neglect affecting a child accommodated in the children's home;
 - (c) records to be kept of an allegation of abuse or neglect, and the action taken in response;
 - (d) consideration to be given to the measures which may be necessary to protect children in the children's home following an allegation of abuse or neglect;
 - (e) a requirement for persons working at the home to report any concerns about the welfare or safety of a child accommodated there to—
 - (i) the registered person;
 - (ii) a police officer;
 - (iii) an officer of HMCI;
 - (iv) an officer of the local authority in whose area the home is situated; or
 - (v) an officer of the National Society for the Prevention of Cruelty to Children.
- (3) The registered person must prepare and implement as required—
- (a) a policy for the prevention of bullying in the children's home, which must in particular set out the procedure for dealing with an allegation of bullying; and
 - (b) a policy (in this regulation referred to as “the missing child policy”) setting out—
 - (i) the steps taken in relation to the children's home to prevent children accommodated there from being absent without permission; and
 - (ii) the procedures to be followed, and the roles and responsibilities of persons working at the children's home, in relation to a child who is, or has been, so absent.
- (4) Before implementing, or making an amendment which the registered person considers to be substantive to, the missing child policy, the registered person must—
- (i) consult, and take into account the views of, such local persons or bodies as the registered person considers appropriate; and
 - (ii) have regard to any relevant local authority or police protocols on missing children.
- (5) Where the registered person considers that a child who is accommodated in the children's home and for whom a care plan has been prepared—
- (a) is, or has been, persistently absent without permission from the children's home; or
 - (b) is at risk of harm,
- the registered person must ask the local authority that looks after that child to review that child's care plan.
- (6) The registered person must keep under review and where appropriate revise the policies referred to in paragraphs (1) and (3).

Behaviour management policies and records

37.—(1) The registered person must prepare and implement a policy (in this regulation referred to as the "behaviour management policy") which sets out—

- (a) how appropriate behaviour is to be promoted in the home; and
- (b) the measures of control, discipline and restraint which may be used in the children's home.

(2) The registered person must keep the behaviour management policy under review and, where appropriate, revise it.

(3) The registered person must ensure that within 24 hours of the use of any measure of control, discipline or restraint in a children's home, a record is made which includes—

- (a) the name of the child concerned;
- (b) details of the child's behaviour leading to the use of the measure;
- (c) a description of the measure used;
- (d) the date, time and location of the use of the measure;
- (e) the name of the person using the measure, and of any other person present;
- (f) the effectiveness and any consequences of the use of the measure;
- (g) a description of any injury to the child concerned or any other person and any medical treatment administered;
- (h) confirmation that the person authorised by the registered person to make the record has spoken to the child concerned and the person using the measure about the use of the measure and the feelings of both of them in relation to the use of the measure; and
- (i) the signature of the person authorised by the registered person to make the record.

(4) Where a measure of restraint is used on a child the record under paragraph (3) must include—

- (a) the duration of the measure of restraint; and
- (b) details of any methods used to avoid the need to use that measure.

Children's case records

38.—(1) The registered person must maintain in respect of each child accommodated in the children's home a record in permanent form which—

- (a) includes the documents, information and records in Schedule 3 relating to that child;
- (b) is kept up to date; and
- (c) is signed and dated by the author of each entry.

(2) The record in paragraph (1) may not be disclosed to any person except in accordance with—

- (a) a provision of, or made under, or by virtue of, an enactment under which access to such records is authorised; or
- (b) a court order authorising access to such records.

(3) Subject to paragraph (4), the record in paragraph (1) must be—

- (a) kept securely in the children's home so long as the child to whom it relates is accommodated there; and
- (b) thereafter retained in a secure place,

for at least seventy-five years from the date of birth of the child to whom it relates or, if the child dies before attaining the age of 18, for a period of fifteen years from the date of his or her death.

(4) When a children's home is about to close or cease to exist as such ("the closing home"), the registered provider must—

- (a) if the registered provider is, or continues to be, the registered provider in respect of another children's home, transfer the record under paragraph (1) which are held at the closing home to the other children's home; or
- (b) if the registered provider is not, or does not continue to be, the registered provider for another children's home, transfer the records under paragraph (1) which are held at the closing home to the placing authority for the child to whom the records relate.

Other records

39.—(1) The registered person must maintain in the children's home the records in Schedule 4 and ensure that they are kept up to date.

(2) The records referred to in paragraph (1) must be retained for at least fifteen years from the date of the last entry.

Storage of records etc.

40.—(1) The items listed in paragraph (2) may be kept in electronic form provided the information so recorded is capable of being reproduced in a legible form.

(2) The items are—

- (a) the statement of purpose;
- (b) the children's guide;
- (c) placement plans for children who are not looked (under regulation 19);
- (d) the policy to safeguard children (under regulation 36);
- (e) the policy for preventing bullying (under regulation 36);
- (f) the missing child policy (under regulation 36);
- (g) the behaviour management policy (under regulation 37);
- (h) records of the use of measures of control, discipline or restraint (under regulation 37);
- (i) children's case records (under regulation 38);
- (j) other records (under regulation 39);
- (k) the procedure for considering complaints (under regulation 41);
- (l) records of complaints (under regulation 41);
- (m) the annual review of the appropriateness and suitability of the location of the home's premises (under regulation 44);
- (n) the independent person's report (under regulation 45);
- (o) reviews of the quality of care by the registered person (under regulation 46).

Complaints and representations

41.—(1) Subject to paragraph (7), the registered person must establish a procedure for considering complaints made by or on behalf of children accommodated in the home.

(2) The procedure must, in particular, provide that no person who is the subject of a complaint takes any part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;

(3) A copy of the procedure must be supplied on request to—

- (a) children accommodated at the home;
- (b) their parents;
- (c) placing authorities; and
- (d) persons working at the home.

(4) The registered person must ensure that a record is made of any complaint, the action taken in response, and the outcome of any investigation.

(5) The registered person must ensure that no child is subject to any reprisal for making a complaint or representation.

(6) The registered person must supply to HMCI, at HMCI's request, a statement containing a summary of any complaints made during the preceding twelve months and the action that was taken.

(7) This regulation (apart from paragraph (5)) does not apply to any matter to which the Children Act 1989 Representations Procedure (England) Regulations 2006(a) apply.

Notification of a serious event

42.—(1) If a child accommodated in the children's home dies, the registered person must without delay notify—

- (a) HMCI;
- (b) the placing authority;
- (c) the Secretary of State;
- (d) if different from the placing authority, the local authority in whose area the home is situated;
- (e) the clinical commissioning group (as defined in section 14D of the National Health Service Act 2006(b)) for the area in which the home is situated;
- (f) if the child was accommodated in a secure children's home because that child was remanded or sentenced to youth detention, the Prisons and Probation Ombudsman for England and Wales; and
- (g) any other relevant person.

(2) If there is a referral of an individual working in the home pursuant to section 35 of the Safeguarding Vulnerable Groups Act 2006, the registered person must without delay notify—

- (a) HMCI;
- (b) the placing authority; and
- (c) any other relevant person.

(3) If, in relation to a children's home, a serious event takes place affecting the welfare of a child, the registered person must without delay notify any relevant person.

(4) The registered person must without delay notify the parent of any child accommodated in the home of any serious event affecting the child's welfare unless to do so is not reasonably practicable or would place the child's welfare at risk.

(5) Any notification made in accordance with this regulation which is given orally must be confirmed in writing.

Notification with respect to children admitted into, or discharged from, the children's home

43.—(1) The registered person must notify, in writing, the local authority for the area in which the children's home is located without delay of—

- (a) the admission of a child into; and
- (b) the discharge of a child from,

the children's home.

(a) To be inserted.

(b) To be inserted.

(2) The registered person is not required to notify a local authority pursuant to paragraph (1) if that local authority is also the placing authority for the child in question.

(3) A notification under paragraph (1) must state—

- (a) the child's name and date of birth;
- (b) whether the child is—
 - (i) provided with accommodation under section 20 or 21 of the 1989 Act^(a);
 - (ii) subject to a care or supervision order under section 31 of the 1989 Act^(b);
- (c) the contact details for—
 - (i) the child's placing authority;
 - (ii) the independent reviewing officer appointed for the child's case; and
- (d) whether the child has a statement of special educational needs or an EHC plan and, if so, details of the local authority that maintain that statement or are responsible for that EHC plan.

PART 6

Management of home

Review of premises

44.—(1) The registered person must review the appropriateness and suitability of the location of the premises used for the purposes of a children's home at least once in each calendar year taking into account the standards in regulations 12(2)(c) (the protection of children standard) and 14(2)(d) (the care planning standard).

(2) When conducting a review for the purposes of paragraph (1), the registered person must consult, and take into account the views of, such local bodies or persons as the registered person considers appropriate.

Visits by independent person

45.—(1) Subject to paragraph (2), the registered provider must appoint, at the registered provider's expense, an independent person to visit and report on the children's home in accordance with this regulation.

(2) The following persons are disqualified from appointment as an independent person—

- (a) subject to paragraph (3), a person who is employed for payment by the registered provider;
- (b) subject to paragraph (4), where the registered provider of the home is a local authority, a person who is employed by that local authority in connection with the carrying on of the authority's social services functions (as defined by section 1A of the Local Authority Social Services Act 1970) relating to children;
- (c) a person involved in preparing the care plan of any child placed at the children's home, or a person responsible for managing or supervising that person;
- (d) a person responsible for commissioning or financing services provided by the children's home;
- (e) a person with a financial interest in the children's home;
- (f) the responsible individual, if nominated;
- (g) a person who has, or has had, a connection with—

(a) To be inserted.

(b) To be inserted.

- (i) the registered person;
- (ii) a person working at the children's home; or
- (iii) a child accommodated at the children's home,

which the registered provider considers to give rise to doubts about that person's impartiality for the purposes of producing the independent person's report.

(3) An employee of the registered provider is not, by reason only of that employment, disqualified under sub-paragraph (2)(a) or (g) from being an independent person where he or she is engaged pursuant to a contract of service or a contract for services which provides that he or she is solely to critically examine and scrutinise—

- (a) the way that a children's home is carried on or managed; and
- (b) the quality of care that a children's home provides for children accommodated there.

(4) Where the registered provider is a local authority, a person appointed by that authority as an independent reviewing officer is not disqualified from being an independent person in relation to a home carried on by that local authority or any other local authority.

(5) The registered provider must require the independent person to declare any actual or potential conflict of interest, whether pursuant to paragraph (2) or otherwise, to the registered provider without delay and, if practicable, before conducting a visit to the children's home.

(6) Where the registered provider becomes aware of a potential conflict of interest in relation to the independent person before or during that person's visit to the children's home, the registered provider must—

- (a) make arrangements to cancel the visit without delay; and
- (b) appoint a different independent person to visit the children's home.

(7) Where the independent person becomes aware of a potential conflict of interest after a visit to the children's home, the independent person must include in the independent person's report—

- (a) details of the conflict of interest; and
- (b) the reasons why he or she did not notify the registered provider of the conflict of interest before the visit.

(8) Visits by the independent person under paragraph (1) must take place at least once a month and may be unannounced.

(9) The independent person, when carrying out a visit, must—

- (a) interview, with their consent and in private, such of the children accommodated there, their parents, relatives and persons working at the children's home as appears necessary in order to form an opinion as to whether—
 - (i) children accommodated at the children's home are effectively safeguarded; and
 - (ii) the conduct of the children's home promotes the well-being of the children accommodated there;
- (b) inspect the premises of the children's home, and such of the children's home's records, as the independent person requires (save for a child's case records, unless the child and the child's placing authority consent to the inspection of those records by the independent person).

(10) The independent person must produce a report about a visit (referred to in this regulation as "the independent person's report") and provide a copy of the report to—

- (a) HMCI;
- (b) upon request, the local authority for the area in which the home is located;
- (c) the placing authorities of children accommodated in the children's home;
- (d) the registered provider and, if applicable, the registered manager; and
- (e) the responsible individual, if nominated.

(11) The independent person's report may recommend actions that the registered person may take in relation to the children's home and timescales within which the registered person must consider whether or not to take those actions.

Review of quality of care

- 46.**—(1) The registered person must establish and maintain a system for—
- (a) reviewing the quality of care provided for children accommodated in the children's home at least once every 6 months, taking into account the matters in paragraph (2); and
 - (b) improving the quality of care provided in the home.
- (2) The matters are—
- (a) the statement of purpose;
 - (b) the policies in relation to the home in paragraph (5);
 - (c) the independent person's report and recommendations made under regulation 45 (visits by independent person);
 - (d) information kept in the records in paragraph (6);
 - (e) the quality standards pursuant to regulation 4.
- (3) The registered person must—
- (a) supply to HMCI any report in respect of a review conducted by him or her for the purposes of paragraph (1); and
 - (b) make a copy of any such report available on request to a placing authority, where the placing authority is not the parent of a child accommodated in the home.
- (4) The system referred to in paragraph (1) must provide for consultation with children accommodated in the home, their parents and placing authorities.
- (5) The policies are—
- (a) the policy to safeguard children (under regulation 36);
 - (b) the policy for preventing bullying (under regulation 36);
 - (c) the missing child policy (under regulation 36);
 - (d) the behaviour management policy (under regulation 37);
 - (e) the procedure for considering complaints (under regulation 41).
- (6) The records are—
- (a) records of the administration of medicines to children (under regulation 24);
 - (b) records of allegations of abuse or neglect (under regulation 36);
 - (c) records of the use of measures of control, discipline or restraint (under regulation 37);
 - (d) children's case records (under regulation 38);
 - (e) other records (under regulation 39);
 - (f) records of complaints (under 41).

Financial position

47.—(1) The registered provider must carry on the children's home in such manner as is likely to ensure that the home will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose.

- (2) The registered person must—
- (a) ensure that adequate accounts are maintained and kept up to date in respect of the children's home;
 - (b) supply a copy of the accounts to HMCI at HMCI's request.

(3) The registered person must provide HMCI with such information as it may require for the purpose of considering the financial viability of the children's home, including—

- (a) the annual accounts of the home certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing and financial resources of the home;
- (d) where the registered provider is a company, information as to any of its associated companies; and
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him or her in relation to the home in respect of damage, death, injury, public liability or other loss.

(4) In this regulation a company is an associated company of another if one of them has control of the other or both are under the control of the same person.

PART 7

Miscellaneous

Notice of absence

48.—(1) Where the person who is in day-to-day charge of the children's home proposes to be absent from the home for a continuous period of 28 days or more, the registered person must give notice in writing to HMCI of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) must—

- (a) be given no later than one month before the proposed absence commences, or within such shorter period as may be agreed with HMCI; and
- (b) specify with respect to the proposed absence—
 - (i) its length or expected length;
 - (ii) the reason for it;
 - (iii) the arrangements which have been made for running the children's home;
 - (iv) the address, name and qualifications of the person who will be responsible for the home during the absence; and
 - (v) in the case of the absence of the registered manager, the arrangements that have been or are proposed to be made for appointing another person to manage the children's home during the absence, including the proposed date by which the appointment is to be made.

(3) Where the absence arises as a result of an emergency, the registered person must give notice of the absence—

- (a) within one week of its occurrence; and
- (b) specifying the matters in paragraph (2)(b).

(4) Where—

- (a) the person in day-to-day charge of the children's home has been absent from the home for a continuous period of 28 days or more; and
- (b) HMCI has not been given notice of the absence,

the registered person must without delay give notice in writing to HMCI specifying the matters in paragraph (2)(b).

(5) The registered person must notify HMCI of the return to duty of the person in day-to-day charge of the home not later than 7 days after the date of that person's return.

Notice of changes

49. The registered person must give notice in writing to HMCI as soon as it is practicable to do so if any of the following events take place or are proposed to take place—

- (a) a person other than the registered person carries on or manages the children's home;
- (b) a person ceases to carry on or manage the home;
- (c) where the registered provider is an individual, he or she changes his or her name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—
 - (i) the name or address of the organisation changes;
 - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
 - (iii) there is to be any change in the identity of the responsible individual;
- (f) where the registered provider is an individual—
 - (i) a trustee in bankruptcy is appointed; or
 - (ii) the provider makes a composition or arrangement with his or her creditors;
- (g) where the registered provider is a company, a liquidator or a provisional liquidator, a manager or a receiver is appointed; or
- (h) the premises of the home are significantly altered or extended, or additional premises are acquired.

Appointment of liquidators etc.

50.—(1) This regulation applies to a person appointed (“the appointed person”) as—

- (a) the manager or receiver of the property of a company or partnership which is the registered provider of a children's home;
- (b) a liquidator or provisional liquidator of a company which is the registered provider of a home; or
- (c) the trustee in bankruptcy of the registered provider of a children's home.

(2) The appointed person must—

- (a) have regard to the welfare of children living in the home when acting in relation to the operation of the home and its future;
- (b) without delay, notify HMCI of his or her appointment and the reasons for it;
- (c) appoint a manager to take full-time day-to-day charge of the children's home if there is no registered manager; and
- (d) not more than 28 days after his or her appointment, notify HMCI of his or her intentions regarding the future operation of the home.

Death of registered person

51.—(1) Where—

- (a) more than one person is registered in respect of a children's home; and
- (b) a registered person dies,

the other registered person must notify HMCI of the death in writing without delay.

(2) If only one person is registered in respect of a children's home, and he or she dies, his or her personal representatives must notify HMCI in writing—

- (a) without delay of the death; and

- (b) within 28 days of their intentions regarding the future running of the home.
- (3) The personal representatives of a deceased registered provider—
 - (a) may carry on the home without being registered in respect of it—
 - (i) for a period not exceeding 28 days;
 - (ii) for any further period as may be determined in accordance with paragraph (4);
 - (b) must appoint a person to take full-time day-to-day charge of the home during any period in which they carry on the children's home without being registered in respect of it.
- (4) HMCI—
 - (a) may extend the period in paragraph (3)(a)(i) by such further period, not exceeding one year, as HMCI may determine; and
 - (b) must notify any such determination to the personal representatives in writing.

Revocation

- 52.** The following regulations are revoked—
- (a) The Children’s Homes (England) Regulations 2001(a);
 - (b) [regulations amending the Children’s Homes (England) Regulations 2001].

Address Date	<i>Name</i> Parliamentary Under Secretary of State Department for Education
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SCHEDULE 1

Matters to be included in the Statement of Purpose

Caring for children

1. A statement of the range of needs of the children for whom it is intended that the children's home is to provide care.
2. Details of the children's home's ethos, and the outcomes that the children's home seeks to achieve and its approach to achieving them.
3. The arrangements for enabling children to enjoy and achieve, including how the children's home promotes their participation in cultural, recreational and sporting activities
4. The arrangements for supporting the cultural, linguistic and religious needs of children accommodated in the children's home.
5. The arrangements for promoting contact between children and their family and friends.
6. A description of the children's home's approach to consulting children about the quality of their care.
7. A description of the children's home's policy and approach in relation to—
 - (a) anti-discriminatory practice in respect of children and their families; and
 - (b) children's rights.

(a) To be inserted.

8. A description of the accommodation offered by the children's home, including—
 - (a) how accommodation has been adapted to the needs of children cared for by the children's home;
 - (b) the age range, number and sex of children for whom it is intended that accommodation is to be provided;
 - (c) the type of accommodation, including sleeping accommodation.
9. A description of the location of the children's home.
10. Details of the children's home's policies for safeguarding children, preventing bullying and the missing child policy.
11. Any criteria used for the admission of children to the children's home, including any policies and procedures for emergency admission.
12. The arrangements for dealing with complaints.

Children's behaviour

13. A description of the children's home's approach to the surveillance and monitoring of children accommodated there.
14. Details of the children's home's approach to behavioural support, including information about—
 - (a) the children's home's approach to the use of restraint with respect to children accommodated there;
 - (b) how persons working in the children's home are trained in the use of restraint and how their competence is assessed.

Contact details

15. The name and work address of—
 - (a) the registered provider (including details of the company owning the children's home);
 - (b) if nominated, the responsible individual;
 - (c) if applicable, the registered manager.

Education

16. Details of provision to support children with special educational needs.
17. Where the children's home is dually registered as a school, details of the curriculum provided by the children's home and the management and structure of the arrangements for education.
18. Where the children's home is not dually registered as a school, the arrangements for children to attend local schools and the provision made by the children's home to promote the educational attainment of children.

Health

19. Details of any health care or therapy provided, including—
 - (a) details of the qualifications and clinical supervision of the staff involved;
 - (b) information about—
 - (i) how the children's home measures the effectiveness of its approach; and
 - (ii) the evidence referred to by the children's home to demonstrate the effectiveness of its approach,

and how this information can be accessed.

Staffing matters

20. Details of the experience and qualifications of staff working at the children's home, including any staff commissioned to provide education and health care.

21. Details of the management and staffing structure of the children's home, including arrangements for the professional supervision of staff employed at the children's home, including staff that provide education or health care.

22. If the staff working at the children's home are all of one sex, or mainly of one sex, a description of how the children's home promotes appropriate role models of both sexes.

SCHEDULE 2

Information required in respect of persons seeking to carry on, manage or work at a children's home

- 1.** Proof of identity including a recent photograph.
- 2.** Either—
 - (a) where the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002(**a**), an enhanced criminal record certificate issued under section 113B of the Police Act 1997(**b**) which includes, where applicable, suitability information relating to—
 - (i) children (within the meaning of section 113BA(2) of that Act(**c**));
 - (ii) vulnerable adults (within the meaning of section 113BB(2) of that Act(**d**)); or
 - (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997(**e**).
- 3.** Two written references, including a reference from the person's most recent employer, if any.
- 4.** Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended.
- 5.** Documentary evidence of any relevant qualifications.
- 6.** A full employment history, together with a satisfactory written explanation of any gaps in employment.

(a) To be inserted.
(b) To be inserted.
(c) To be inserted.
(d) To be inserted.
(e) To be inserted.

SCHEDULE 3

Information to be included in the case records of children accommodated in children's homes

1. The child's name and any name by which the child has previously been known, other than a name used by the child prior to adoption.
2. The child's date of birth and sex.
3. The child's religious persuasion, if any.
4. A description of the child's racial origin, cultural and linguistic background.
5. The child's address immediately prior to entering the home.
6. The name, address and telephone number of the child's placing authority.
7. The statutory provision (if any) under which he is provided with accommodation.
8. The name, address, telephone number and the religious persuasion, if any, of the child's parents.
9. The name, address and telephone number of any social worker for the time being assigned to the child by the placing authority.
10. The date and circumstances of all incidents where a child accommodated in the home goes missing from the home, including any information relating to the child's whereabouts during the period of absence.
11. A copy of any statement of special educational needs or EHC plan in relation to the child.
12. The date and circumstances of any measures of control, restraint or discipline used on the child.
13. Any special dietary or health needs of the child.
14. If the child attends a school or college—
 - (a) the name, address and telephone number of the school or college; and
 - (b) if the school has a member of staff who has been designated by its governing body for the purposes of section 20(1) of the Children and Young Persons Act 2008(a), the name and telephone number of that person.
15. The name, address and telephone number of any employer of the child.
16. Every school report received in respect of the child while he or she is accommodated in the home.
17. Arrangements for, including any restrictions on, contact between the child, his or her parents, and any other person.
18. A copy of any plan for the care of the child prepared by his or her placing authority, and of the placement plan.
19. The date and result of any review of the placing authority's plan for the care of the child, or of his or her placement plan.
20. The name of the general medical practitioner with whom the child is a registered patient, the address of the premises at which the primary medical services are usually provided and the name and address of the child's registered dental practitioner.

(a) To be inserted.

21. Details of any accident or serious illness involving the child while accommodated in the home.

22. Details of any immunisation, allergy, or medical examination of the child and of any medical or dental need or treatment of the child.

23. Details of any health examination or developmental test conducted with respect to the child at or in connection with his or her school.

24. Details of any medicines kept for the child in the home, including any medicines which the child is permitted to administer to himself or herself, and details of the administration of any medicine to the child.

25. The dates on which any money or valuables are deposited by or on behalf of a child for safekeeping, and the dates on which any money is withdrawn, and any valuables are returned.

26. The address, and type of establishment or accommodation, to which the child goes when he ceases to be accommodated in the home.

SCHEDULE 4

Other records with respect to children's homes

1. A record in the form of a register showing in respect of each child accommodated in a children's home—

- (a) the date of his or her admission to the home;
- (b) the date on which he or she ceased to be accommodated there;
- (c) his or her address prior to being accommodated in the home;
- (d) his or her address on leaving the home;
- (e) his or her placing authority;
- (f) the statutory provision (if any) under which he or she is accommodated.

2. A record showing in respect of each person working at the home—

- (a) his or her full name;
- (b) his or her sex;
- (c) his or her date of birth;
- (d) his or her home address;
- (e) his or her qualifications relevant to, and experience of, work involving children;
- (f) whether he or she works at the home full-time or part-time (whether paid or not), and if part-time, the average number of hours worked per week; and
- (g) whether he or she resides at the home.

3. A record of any persons who reside or work at any time at the children's home, who are not mentioned in the records kept in accordance with paragraphs 1 or 2.

4. A record of all accidents occurring in the children's home, or to children whilst accommodated by the home.

5. A record of the receipt, disposal and administration of any medicine to any child.

6. A record of every fire drill or fire alarm test conducted, with details of any deficiency in either the procedure or the equipment concerned, together with details of the steps taken to remedy that deficiency.

7. A record of all money deposited by a child for safekeeping, together with the date on which that money was withdrawn, or the date of its return.

8. A record of all valuables deposited by a child and the date of their return.
9. Records of all accounts kept in the children's home.
10. A copy of the staff duty roster of persons working at the children's home, and a record of the actual rosters worked.
11. A record of all visitors to the home and to children accommodated in the home, including the names of visitors and the reasons for the visit.

EXPLANATORY NOTE

(This note is not part of the Regulations)

[TO BE INSERTED]

An impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside these Regulations at www.legislation.gov.uk.